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**Wiesner & Assoc.**

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TOTAL PAGES, INCLUDING COVER:5 Re: Renewed Petition under CFR 1.137 for 10/695,888

**Comments:**

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PTO/SB/21 (05-03)

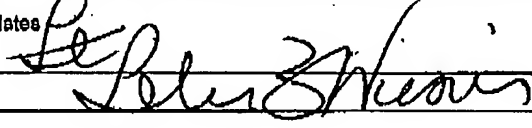
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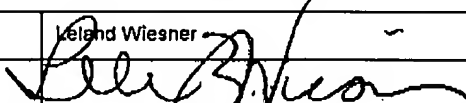
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|   |                        |                 |
|---|------------------------|-----------------|
| <b>TRANSMITTAL FORM</b><br>(to be used for all correspondence after initial filing) | Application Number     | 10/695,888      |
|   | Filing Date            | Oct 28, 2003    |
|   | First Named Inventor   | Nguyen, Tuan    |
|   | Art Unit               |                 |
|   | Examiner Name          |                 |
| Total Number of Pages in This Submission  | Attorney Docket Number | 00121-000800000 |

| ENCLOSURES (check all that apply)   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Renewed Petition under CFR 1.137(b),<br>PTO form2038, copy of USPTO notice |
| Remarks<br>Renewed Petition under CFR 1.137(b)  |  |   |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |  |
|--|--|
| Firm or Individual name                    | Wiesner & Associates   |
| Signature                                  |  |
| Date                                       | August 25, 2005  |

| CERTIFICATE OF TRANSMISSION/MAILING   |   |      |                 |
|---|---|------|-----------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. |   |      |                 |
| Type or printed   | Ireland Wiesner   |      |                 |
| Signature   |  | Date | August 25, 2005 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**AUG 04 2005**

**OFFICE OF PETITIONS**

In re Application of :  
 Tuan Nguyen, et. al. :  
 Application No. 10/695,888 :  
 Filed: October 28, 2003 :  
 Attorney Docket No. 00121-000800000 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 2, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed June 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 2, 2004.

In response to the Notice to File Corrected Application Papers, petitioner submitted an authorization to charge \$1,330 for the petition to revive fee, \$65 for a late filing surcharge, nine (9) sheets of replacement drawings containing Figures 1-9, and the statement of unintentional delay.

Since the petition contains an assertion that this application is other than small entity, status as a small entity has been removed and the petition fee will be charged as a large entity. If this is an incorrect interpretation, than petitioner must notify the Office immediately.

Petitioner should note that effective December 8, 2004, the large entity unintentional petition to revive fee was increased to \$1,500 and the large entity surcharge for the late filing fee or oath is \$130. Since the Notice did not require petitioner to submit a surcharge for the late filing, this fee is unnecessary and will not be charged to petitioner's deposit account.

The petition is dismissed.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

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Application No. 10/695,888

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With respect to item (2), the deposit account listed in the petition contains insufficient funds. Therefore, petitioner must submit \$1,500 for the petition fee before this application can be revived.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

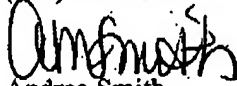
Further correspondence with respect to this matter should be addressed as follows:

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**By Hand:** Customer Service Window  
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401 Dulany Street  
Alexandria, VA 22314

**By Fax:** (571) 273-8300  
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: Leland Wiesner  
366 Cambridge Avenue  
Palo Alto, CA 94306